

In Hargrave.

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*518. h. 14,
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CHARGE

TO THE

GRAND JURY

OF THE

COUNTY OF MIDDLESEX,

DELIVERED

At the GENERAL SESSION of the PEACE,
holden at HICKS-HALL, in the said County, on
Monday the Eleventh Day of September, 1780.

By SIR JOHN HAWKINS, KNT.

CHAIRMAN of the Quarter and General Sessions of the
Peace and of Oyer and Terminer for the same County.

L O N D O N :

Printed for EDWARD BROOKE, at the Dove, in Bell-Yard,
near Lincoln's-Inn.

M D C C L X X X.

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MIDDLESEX
COUNTY

IN SENATE
JANUARY 18, 1888

GRAND JURY

RETURNED
FEBRUARY 1, 1888

IN SENATE
FEBRUARY 1, 1888

REPORT OF THE
GRAND JURY

FOR THE YEAR
1887

PRESENTED TO THE
LEGISLATURE

BY THE
CLERK OF THE COURT

IN SENATE
FEBRUARY 1, 1888

M I D D L E S E X.

At the General Session of the Peace holden at Hicks-Hall, in Saint John-Street, in and for the County aforesaid, on Monday the Eleventh Day of September, 1780, before the Reverend Sir George Booth, Baronet, Thomas Cogan, William Gregson, George Alcock, Esquires, and others their Fellows, Justices of our Lord the King assigned to keep the Peace in and for the said County.

IT is unanimously resolved and ordered, That the Thanks of this Court be, and the same are hereby returned to Sir JOHN HAWKINS, Knt. Chairman of the Sessions of the Peace for this County, for his Charge delivered to the GRAND JURY, at the Opening of this Session. And this Court doth desire, that he will be pleased to cause the same to be printed and published as soon as conveniently may be. And it is further ordered, That Sir JOHN HAWKINS have a Copy of this Order, and that the Clerk of the Peace do attend him therewith immediately.

TO THE WORSHIPFUL
SIR JOHN HAWKINS, KNT.

WE the GRAND JURY sworn to inquire for the County of *Middlesex*, having this Eleventh Day of *September*, 1780, received from your Worship a learned and eloquent CHARGE, do hereby return our most sincere Thanks for the same, and pray that, for the public Good, you will cause the same to be printed and published.

*George Friend,
Robert Walford,
Roger Griffin,
Thomas Nowell,
Joseph Mainwaring,
Hugh Morgan,
John Rivington,
John Robinson,
John Bacon,
Richard Palmer,
Lawrence Green,
Thomas Fazakerly,*

*Edward Gateward,
Robert Chapman,
Samuel Adshead,
Joseph Faikney,
John Woolly,
John Barton,
Joseph Odell,
Henry Wright,
George Hickman,
Richard Rees,
Jasper Weaver.*

The TRAVERSE JURY, consisting of the under-named Persons, make the same Request.

*James Whislin,
John Banbury,
James Dashper,
John Byfield,
Matthew Graham,
William Newcomb,*

*Edward Millington,
Mark Stanley,
Edward Cooper,
William Luff,
Elijah Jeffries,
William Smith.*

A
C H A R G E
TO THE
G R A N D J U R Y
Of the County of MIDDLESEX.

Gentlemen of the Grand Inquest,

T the Opening of the last Session I was led, by a Retrospect on the Transactions of the preceding Month, to give to the Grand Inquest, then attending on this Court, in a Charge, which, as having neither Leisure or Opportunity to prepare myself for any other, was unpremeditated, some general Directions for their Conduct in the Execution of their Office, together with some Information touching the Nature and Extent of their Authority, adapted particularly to that Crisis.

Whether the like Kind of Necessity yet subsists, I have neither inquired nor am informed: I trust it does not; and that there remain but few of those who were found active in the late daring Outrages, that have not either satisfied the Justice of the Law, or experienced that Clemency which, in all favourable Cases, his Majesty is disposed to extend.

Nevertheless, while there exists a Possibility that, in Consequence of recent Information, or some other warrantable Ground for Prosecution, you may be called to the Exercise of that Power and Authority which the Law has entrusted you with, in the bringing to a legal Trial the Disturbers of the public Peace, I hold it my Duty to give you, that now attend for that Purpose, such Instruction and Advice as I am able, for the faithful and conscientious Discharge of your Office : And to this I think myself the more obliged, by the Consideration that there may be some among you to whom, as never having attended in this Capacity before, such Instruction and Advice may be necessary.

To all which I add, that this Court being possessed of no Power of controuling your Deliberations, or of rectifying, other than in Matters of Form, any of the Mistakes, Errors, or Imperfections you might innocently fall into, or which might appear on the Face of any of your Presentments, it cannot but be of Importance to the Properties, the Liberties, and even the Lives of your fellow Subjects, as also for the Ease and Quiet of your own Minds, and greatly for the Benefit of the Public, that your Judgments should be well informed as to the Nature and Extent, and the Reasons that oblige you to the conscientious Exercise, of your Authority.

Upon

Upon this Ground, and before I proceed to enumerate the several Heads into which the criminal Law of this Country is branched out, I must inform you, that your Jurisdiction extends to all such Offences as the Law, no less emphatically than truly, declares to be against the King's, or, which is the same, the public Peace.

The Motives to peaceable Conduct, or, in other Words, of Submission to that legal Power, the chief End whereof is the Preservation of Peace and its consequent Blessing Liberty, are of various Kinds; but with the generality of People there is one that human Laws have ever in View, namely, the Penalties that follow the Violation of public or private Rights; but Penalties have very little Effect on the Mind, they operate only on the Will; and it is a higher Principle than the Dread of Punishment that must dispose Men to be either good Subjects or good Neighbours. By this higher Principle I mean nothing less than that Reverence for legal Government, which, in the Opinion of the Wise and Judicious in all Ages, is but its Due.

I shall not need to trouble you with any of those Notions touching the Origin of civil Government, which have employed the Thoughts and Pens of speculative Politicians: As little do I mean to decide upon that

controverted Question, whether the Power of the supreme Magistrate be the Grant of God, or the Gift of the People; and the rather, because there is, in my Apprehension, a middle Hypothesis that removes all the Difficulties that have hitherto embarrassed this subtle Question *. It is sufficient here to say, that Government was originally instituted of Necessity; and being calculated,

* Touching the Origin of civil Government, there are two Opinions severally maintained by the Writers on that Subject; the one termed the *patriarchal*, which supposes the Right of Dominion to be founded on the express Donation of God, the other called the *popular* Scheme, which supposes the same Right to be the Gift, or to arise from the Consent, of the People. Of the former, Sir *Robert Filmer*, *Hobbes* of *Malmesbury*, and a few others; of the latter, Mr. *Locke*, and, if I remember right, Bishop *Hoadley*, are the Abettors.

The middle Hypothesis above hinted at is, that the Rights, the Powers, and Privileges of Dominion are from God, but the Choice of the Person who shall exercise them is the Right of the People.

A late very ingenious Writer, the Rev. Mr. *Henry Grove*, of *Taunton*, was the first, in his own Opinion, that discovered this Middle Scheme, concerning which he speaks as follows: ' There may possibly be Advantages peculiar to each of these [the popular and the patriarchal] Schemes, and whether the Patrons of them will own it or no, there are Difficulties and Objections too that embarrass both.——Now if there be any third Hypothesis, which, having the main Advantages of these two, provides against the ill Consequences of each, it ought certainly to have the Preference. I am mistaken if the following does not bid fair for it: The Hypothesis in short is this, That all Power is directly from God, not by positive Appointment, but as he is pleased to signify his sovereign Will by the Nature of Things, leaving it to the Choice and Discretion of People among whom Governments are not yet established, in what Form, by what Persons, and on what Conditions this Power shall be exercised. The Power
itself

ed, not merely to avert the Evils to which a State of Nature must have exposed Mankind, but to promote and ensure all the various Blessings

‘ itself flows from the Will of the Creator, declared with that
 ‘ Plainness and Evidence that no Part of Mankind can be ig-
 ‘ norant of it.’ See an Essay on the Origin and Extent of
 civil Power among the Miscellanies of the Rev. Mr. *Henry*
Grove, Octavo, 1739.

But this Author seems to have been little aware that the very same Doctrine is the Subject of an Essay upon Government, written by Dr. *Thomas Burnett*, Rector of *West Kingston*, in the County of *Wilts*, and printed first in Duodecimo in and again in Octavo in 1726, wherein he thus declares his Sentiments: ‘ As the Welfare of Society is the End and Reason of
 ‘ all Government, so the different Interests of different Societies
 ‘ is the Reason of the different Forms of it: And as it cannot
 ‘ be doubted, but that these different Forms were devised by
 ‘ Men, so though the Authority of Government be from God,
 ‘ yet the Appointment of the Persons to execute that Authority
 ‘ is purely and intirely the Ordinance of Man. And this gives
 ‘ an Account of that Expression, 1 *Peter* ii. 13. of being sub-
 ‘ ject to every Ordinance of Man for the Lord’s Sake; by
 ‘ which is meant, that those who are intrusted with the Go-
 ‘ vernment of Societies in any Kind of Form, are only the
 ‘ Ordinance of Men; but yet, though they are so, they are
 ‘ nevertheless to be submitted to, for the Lord’s Sake, because
 ‘ they execute that Power in Behalf of the Society, which
 ‘ every Society has from God.’ Lib. cit. Page 32, Edit. 1726.

The Coincidence of Opinions between these two Writers is very remarkable, seeing that, without being conscious of so doing, they illustrate the Arguments of each other; and it cannot but be Matter of Surprise to find, as the Reader may, the very same Doctrine maintained by that very able and judicious Writer on Government, *Hooker*, in the following Passage, in the eighth Book of his Ecclesiastical Polity, Page 444. Edit. 1682. ‘ On whom Power is bestowed at Men’s Discretion,
 ‘ they do hold it by Divine Right: If God, in his revealed
 ‘ Word, hath appointed such Power to be, although himself
 ‘ extraordinarily bestow it not, but leave the Appointment of
 ‘ Persons to Men; yea albeit God do neither appoint nor as-
 ‘ sign the Person; Nevertheless, when Men have assigned and
 ‘ established both, Who doth doubt but that sundry Duties
 ‘ and

Blessings of Society, and by directing, controuling, and regulating the social Offices in this Life to fit and prepare us for a better, it is, and must ever be deemed, an Object of high Veneration.

Omitting then an Inquiry into the Origin, let us look to the Ends of Government, which we shall find to be no other than the Good of the People, or, in other Words, the promoting, by Laws and political Institutions founded in Wisdom and Justice and corresponding with the revealed Will of God, the Happiness of those who are the Subjects of it, or over whom it is exercised : Whatever are the Distinctions, the Honours, the Emoluments with which they are in-

‘ and Affairs depending thereupon are prescribed by the Word
 ‘ of God, and consequently by that very Right to be exacted ?
 ‘ For Example Sake, the Power which *Roman* Emperors had
 ‘ over foreign Provinces, was not a Thing which the Law of
 ‘ God did ever institute : Neither was *Tiberius Caesar* by espe-
 ‘ cial Commission from Heaven therewith invested, and yet
 ‘ Payment of Tribute unto *Caesar*, being now made Emperor,
 ‘ is the plain Law of *Jesus Christ* : Unto Kings by *human*
 ‘ Right, Honour, by very *divine* Right, is due.’ The Doc-
 trine above advanced is finely illustrated by the same Author
 in the following apt Comparison : ‘ The Law appointeth no
 ‘ Man to be a Husband ; but if a Man hath betaken himself
 ‘ unto that Condition, it giveth him Power and Authority
 ‘ over his own Wife.’

These Citations seem abundantly to prove against the No-
 tion of a Grant in the one Scheme, or a Donation in the other,
 yet comprehending both ; that the Authority of the Magistrate
 does, by divine Appointment, *result from*, or arise out of, the
 Relation between him and his People, in like Manner as that
 of a Husband does from the Relation between him and his Wife.

vested,

vested, who hold or which accrue from the Exercise of great Offices in the State, these are merely incidental: In a Word, not for the Sake of the Governours, but of the governed, was civil Government first instituted.

But as the Ends of Government cannot be answered without Subordination and legal Submission on the Part of those who derive Benefit from it, there necessarily results an Obligation on the People, of Obedience to the legislative and executive Powers, in what Hands soever lodged: And not to Obedience only, but to Respect and Veneration, without which Government is in Fact, what all Laws do but presume it to be, Coercion; and those Restraints will be looked on as little better than Slavery, which are in Truth the greatest possible Security of Liberty. For if we admit, as we must, that there is a Principle in Men that disposes them to resist Authority, what is Government but Force? and that there is such a Principle no one can deny, who is at all acquainted with human Nature *.

* Laws politic, ordained for public Order and Regimen amongst Men, are never framed as they should be, unless presuming the Will of Man to be inwardly obstinate, rebellious, and averse from all Obedience unto the sacred Laws of his Nature: in a Word, unless presuming Man, in regard of his depraved Mind, little better than a wild Beast, they do accordingly provide, notwithstanding, so to frame his outward Actions, that they be no Hindrance unto the common Good, for which Societies were instituted: Unless they do this, they are not perfect. *Hooker's Ecclesiastical Polity*, Page 85.

That

That such Respect and Veneration as is here mentioned is due from the People to their Governours, is not only deducible from the Principles of natural Reason, and the uniform Tenor of the Sacred Writings, exhorting us to a dutiful Subjection and Obedience to lawful Authority *, but the Exercise of these Dispositions, so necessary to the Existence of Order and the Promotion of national Happiness, is clearly discernible in the Conduct of Mankind and the Oeconomy of the World from the earliest Ages to the present; and that not only in Countries and Nations where the Arts of civil Life, the Refinements of human Policy, and the Precepts of Religion have been equally unknown; but in those enlightened Regions where the Powers of Reason and Reflection have been cultivated to the Height of Philosophy.

These Arguments, drawn from the Nature and End of Government, the Sanction of Holy Scripture, and the general Assent and Practice of Mankind, might be thought sufficient to establish so simple a Position as that the Obligations of the Government, or, to adapt the Term to our own Constitution, of the Prince and his People, are reciprocal; so that if the Duty of one be to afford Protection, that of the other is to

* Vide *Rom.* xiii. 1. *Titus* iii. 1. *1 Peter* ii. 13.

yield Obedience; yet may they be further enforced, by a Reflection on the Utility of Government, as manifested in the Blessings it dispenses, as well in the Execution as the framing of Laws for the Benefit and Security of the Subject. Blessings which can only be estimated by a Comparison that places the Enjoyment of Wealth, the Fruits of Industry, and the Sweets of domestic Felicity on the one Hand, and Terror, Rapine, and Desolation on the other.

To the Arguments arising from the Benefits to Society which Government ensures, I might add the many others deducible from the Miseries that attend the Want of it; but these are evident. Nevertheless, I cannot omit to mention a political Artifice, a cruel one I confess, which we are told was formerly practised in one of the four great Monarchies pointed out by the Prophet *Daniel*; I mean that of the ancient *Persians*; among whom it was a Custom, immediately on the Death of their Kings, to proclaim a Suspension of the Laws, and Impunity to Offenders for five Days; during which Interval the Ravages and Depredations of Robbers, and other lawless Men, were usually so great, as to drive the People to an Impatience for the Restoration of Government, and a willing Submission to that Authority

Authority which uninterrupted national Felicity frequently induces Men to undervalue, if not contemn.

From these Considerations on the Nature and End of Government, the Transition is obvious to those Laws that tend to the Support of it; and here let me observe, that, although in common Speech we are frequently led to say, that the Laws are the King's Laws, and in the Bills preferred to you Offences are said to be against the King's Peace, yet are the Laws no less the Laws of the People than of the King; these, and all the Benefits arising from them, the Freedom of his Person, the Security of his Property, the Protection of his Dwelling, and of his Wife and Children, these, I say, an *Englishman* regards as the Price of his Allegiance, and claims and challenges as his Birthright.

I shall now proceed to an Explanation of the Nature of your Office, and an Enumeration of the several Offences of which it gives you Cognizance. As to the first, you are to understand, that in all Cases which draw into Question the Life, the Liberty, or the Property of the Subject, the Judgment of the Law is founded on the Determination of twelve Men; which Determination, as it is supposed to result from a careful Investigation and Inquiry into the Truth of the Case, is called a Verdict. This is the ordinary
Process

Proceſs in civil Caſes, which go no farther than to draw into Queſtion a Man's Title to his Eſtate, or ſubject him to a Demand of Reparation in Damages for mere perſonal Injuries: In theſe Inſtances the Delinquent is immediately called upon to anſwer the Charge of his Adverſary, even though the ſubject Matter of it be groundleſs, frivolous, or vexatious: But in criminal Matters, that is to ſay, in Treafon, Felony, and Breaches of the Peace, which ſubject the Offender to the Loſs of Life, the Reſtraint of Liberty, or the Payment of a diſcretionary Fine, the Law is abundantly careful, in that it interpoſes between the Complaint and the Trial of the Offence, an Inquiry into the Nature and Motives of the Proſecution; to the End, that if leſs than probable Evidence ſhall be produced in Support of it, the Perſon accused ſhall be diſmiſſed by your Return of Ignoramus. In theſe Preſentments of a Grand Jury, conſiſting generally of twenty-three Perſons, a Majority muſt concur, from whence it follows, that before a Perſon can be convicted on a criminal Charge, two Juries muſt paſs upon him, making together twenty-four Perſons; the one to repel frivolous, vexatious, and malicious Complaints, the other to review ſuch as have received your Sanction, admitting in Evidence and Argument every poſſible Circumſtance of Exculpation.

I have

I have further to inform you, that an Indictment or Presentment by a Grand Inquest is no Part of the Trial of the Offence, but merely an Information or Declaration for the King : ' For were the Indictment Part of the Trial, then ought he that is noble and a Lord of Parliament to be indicted by his Peers ; whereas the Indictment of Peers of the Realm is always by Freeholders, and not by their Peers.' I cite this as the Opinion and express Declaration of one of the ablest Lawyers that ever filled the Seat of Justice in this Country *, and draw this Inference from thence, as also from the uniform Practice of every Court of criminal Jurisdiction in the Kingdom, that an Inquiry by a Grand Inquest is not to be directed by those Rules of Evidence that are prescribed in the Case of a Trial by a Petit Jury, but that probable Evidence is in all Cases a legal and justifiable Ground for your finding an Indictment a true Bill †.

* III Institut. 26. Vide also *Co. Litt.* Sect. 194. *Fortescue* de laudib. Cap. 26. *Staundf.* Plees del. Coron. Lib. 2. Fo. 90:

† *Babington's* Advice to Grand Jurors in Cases of Blood, 163, 125, et passim.—Sir *James Astry's* General Charge to Grand Juries, 14.—*Billa vera* is the Indorsement of the Grand Jury, upon any Presentment or Indictment which they find to be *probably* true. *Terms de la Ley*:—Delatio aut in judicium postulatio nihil aliud est quam duodecem virorum prejudicium, quod finem tamen principali negotio nullam affert, sed conjecturam aut opinionem verius, quo circa de absentibus etiam inquiritur et de noncitatis. *Tho. Smith* de Repub. Anglor. Lib. ii. Cap. 26.—State Trials, Vol. iii. 416. Vol. v. 3.

The Offences cognizable by you are such as either immediately or remotely tend to the Disturbance of the Public Peace; and these are either capital, and punishable by Loss of Life and Forfeiture of Goods, or fineable, subjecting the Offender to a discretionary Fine; and, in atrocious Cases, to the Imprisonment of his Person.

Under the first Head of this Division are comprehended the Crime of Treason, of which there are two Species, that is to say, High-Treason and Petit-Treason, and Felonies, of which there are divers, some at the Common Law, and others by Statute; of the former it may be observed, that High-Treason is an Offence against the State, and of the others that they are each Offences of a less public Nature, Petit Treason being the Term appropriated by Law to homicide committed on a Subject, between whom and the Offender a special Obedience and Subjection is supposed; as from the Wife to her Husband, from a Servant to his Master, or from a Clerk to his Bishop or Diocesan: The other, that is to say, Felony, is of various Kinds, the most obvious of which are Murder, Robbery, Burglary; and in general, every Kind of Larceny, or Stealing.

And here it is my Duty to inform you, that in the higher and lower Offences, that is to say, High-Treason and Larceny, the

Law makes no Distinction between the Principal and the Accessary. So that, in these Offences, not only the Actor, but he who shall stand by, and by Words or Gesticulations abet, instigate, or excite him to, or encourage him in the Commission of the Offence, such a one I say is, in the Judgment of the Law, equally culpable with the Actor: And for this you may discern a most cogent Reason; for in some Instances you will in Fact find the Accomplice to be the Principal in the Offence; as where a Boy is employed in the burglarious Entry of a House, while another stands by and encourages him to venture in; or where a Mob are excited to Outrage by the Counsel, Persuasions, Directions, or Acclamations of one or more particular Persons: In both these Cases, and they are such as very frequently happen, the Abettors and Encouragers are equally responsible in Law with the immediate Perpetrators of the Mischief*.

From a Retrospect to the late Instances of Tumult and Outrage, and those Insurrections which gave rise to them, it is to be feared that some are involved in the Guilt of High-Treason: I shall be extremely cautious in my Directions to you on this Head, and shall choose rather to deliver the Sense

* I. Hawk. P. C. 37.

of the Law in the Words of the Law itself, and of its ablest Expositors, the Judges of the Land, than risque the misleading you by any mistaken Conceptions of my own.

In the earlier Times, the Judges and Lawyers held a Diversity of Opinions respecting the Crime of High-Treason; many Offences being then included under that Denomination, which the Law has since thought proper to reject. At this Day the several Kinds of Offences that constitute this Crime stand enumerated in a Statute of the 25th of *Edw. III.* which, as it is the only legal Test of Treason, has ever been looked upon as the Subject's great Security: Among other Acts of Violence it is thereby expressly declared to be ' High-Treason to levy War
' against our Lord the King in his Realm,
' or to be adherent to his Enemies in his
' Realm: ' Upon the former of which
Clauses the uniform Determination of the Judges has been, ' that those who make an
' Insurrection, in order to redress a Public
' Grievance, whether it be a real or pretended one, and of their own Authority
' attempt with Force to redress it, are said
' to levy War against the King, although
' they have no direct Design against his Person; inasmuch as they insolently invade
' his Prerogative, by attempting to do that

‘ by private Authority, which he by public
 ‘ Justice ought to do, which manifestly
 ‘ tends to a downright Rebellion ; as where
 ‘ great Numbers by Force attempt to re-
 ‘ move certain Persons from the King ; or
 ‘ to lay violent Hands on a Privy Counsel-
 ‘ lor ; or to revenge themselves against a
 ‘ Magistrate for executing his Office ; or to
 ‘ bring down the Price of Victuals ; or to
 ‘ reform the Law or Religion *.’ The same
 is asserted upon equal Authority, of ‘ those
 ‘ who assemble in great Numbers for the
 ‘ Purpose of breaking Prisons, and delivering
 ‘ or setting at Liberty Persons therein con-
 ‘ fined †.’

And although the Idea of levying War
 seems to include the bearing or carrying of-
 fensive Arms, such as Guns, Swords, &c.
 yet the Want of these Circumstances has been
 held of no Weight ; the Number of the
 Insurgents supplying the Want of Military
 Weapons ‡.

The true Test and Criterion of an Insur-
 rection is, the Intent or Purpose for which
 the Parties assemble. If it be on Account of
 some private Quarrel, or to take Revenge on
 particular Persons, it amounts to no more
 than a Riot ; but if it be with a more ge-

* *I. Hawk.* 37. † *Hale's Hist. Placit. Coron.* Vol. I. 133.

‡ *Foster's Crown Law*, 208.

neral View, and for any of the Purposes above-mentioned, especially with a display of Flags or Colours ; the beating of Drums, or other Incentives to Tumult and Outrage ; and where the Insurgents are provided with Axes, Crows, and other Tools of the like Nature, proper for the Mischief they intend to effect ; such an Insurrection, such an Assembling as this, though not immediately against the Person of the King, is doubtless a levying War against him, and by necessary Consequence High-Treason within the Statute *.

The capital Offences next in Degree to Treason are Felonies, and these are divers ; some being at the Common Law, and others by Statute. In the former Class are included Murder, Larceny, Robbery, Burglary, and an Offence termed in our Law *Arson*, or the maliciously and voluntarily burning the House of another by Night or Day † ; Felonies by Statute are much more numerous ; and the present Occasion calls upon me to direct your Attention to a Statute made in the first Year of King *Geo. I.* by which it is enacted, ‘ That if any Persons, to the Number of Twelve, or more, being unlawfully, riotously, and tumultuously assembled together, to the Disturbance of the Public

* *Foster*, 208, 209. † *I. Hawk. P. C.* 105.

‘ Peace ; and being required or commanded
 ‘ by any Justice of the Peace, Sheriff of the
 ‘ County, or Under Sheriff; or by the Mayor,
 ‘ Bailiff, or Bailiffs, or other Head-Officer
 ‘ or Justice of the Peace of any City, or
 ‘ Town corporate, where such Assembly
 ‘ shall be, by Proclamation to be made in
 ‘ the King’s Name, immediately to disperse
 ‘ themselves, and peaceably to depart to their
 ‘ Habitations, or to their lawful Business,
 ‘ under the Pains of the said Statute, shall
 ‘ afterwards unlawfully, riotously, and tu-
 ‘ multuously continue together by the Space
 ‘ of one Hour after such Proclamation made,
 ‘ or after a wilful Let or Hindrance of a
 ‘ Justice of Peace, &c. from making the
 ‘ said Proclamation, they shall be adjudged
 ‘ Felons without Benefit of the Clergy.

And it is further enacted by the said Sta-
 tute, ‘ That if any Person or Persons shall,
 ‘ with Force and Arms, wilfully and know-
 ‘ ingly oppose, obstruct, or in any Manner
 ‘ wilfully and knowingly, let, hinder, or
 ‘ hurt any Person, &c. who shall begin to
 ‘ proclaim, or go to proclaim, according to
 ‘ the Proclamation appointed by the said
 ‘ Statute, whereby such Proclamation shall
 ‘ not be made, they shall be adjudged Felons
 ‘ without Benefit of Clergy.’

And by the same Statute it is further
 enacted, ‘ That if any Persons unlawfully,
 ‘ riotously,

‘ riotously, and tumultuously assembled together, to the Disturbance of the Public Peace, shall unlawfully, and with Force, demolish or pull down, or begin to demolish or pull down, any Church or Chapel, or any Building for religious Worship, certified and registered according to I. *Will.* and *Mar.* 18. which is commonly called the Toleration Act; or any Dwelling-House, Barn, Stable, or other Out-House, they shall be adjudged Felons without the Benefit of the Clergy.’ *

It would take up more of your Time than can well be spared, were I to enumerate all the several Offences that the Law has subjected to the Inquiry of a Grand Inquest. Of those that remain unspoken of the chief are Larcenies, or Felonies of the lesser Kind, Perjury and Subornation thereof, Nuisances and Affrays.

Under the first Head are comprehended the stealing Things of small Value, without any Circumstances of Terror to the Owner; and it affords a very melancholy Proof of the increasing Depravity of the Times, and of the little Regard paid by the common People to the Laws of God, and the Precepts of Religion, that the gradual Improvements of Theft and Depredation seem to have out-gone those of the Law, and to have eluded and set at nought

* Vide I. *Hawk.* 167.

all possible Contrivances for the Security of Property. Not to mention the various Methods of privately stealing from Persons in the Streets or in Public Assemblies, our Humanity is affected by the Consideration that, in the Villages adjacent to the Metropolis, scarce any one resident therein, be his Condition ever so low, can call any Thing his own: and that this is truly the Case, who needs to be told who sees posted up in every Country Retirement, a Caution importing no less than the Loss of a Limb to him who shall attempt the stealing from thence a favourite Plant, Fruit, perhaps unripe, or it may be a Handful of Flowers? This it is well known is a recent Expedient for the Security of rural Property, and argues a Change of Manners among the lower Order of People, which is but one Way to be accounted for.

From Crimes that affect the Persons and Properties of Men, I pass to such as tend to the Obstruction or Hindrance of public Justice; the most atrocious of which are Perjury, and the Subornation thereof. The Credit of human Testimony is of such Importance to Society, that, where it fails, the Laws are either rendered of no avail, or are perverted to Purposes the most injurious, and resemble wholesome Nutriment converted

verted into Poison. By Means of Perjury the innocent are condemned, and the guilty suffered to go free ; and upon this Offence I cannot omit to point out to you an Observation that has frequently occurred to me in the Exercise of my Office of a Magistrate, namely, that in giving Evidence, Men frequently practise a Sort of Casuistry, which they think absolves them from the Guilt of Perjury, distinguishing in their own Minds between swearing to the Hurt, or for the Benefit of another ; and I have known a Witness, for Fear of incurring the Guilt of Perjury, scruple swearing to the Person of an Offender, in Order to his Conviction ; who I have been persuaded, to exculpate him, would not have hesitated falsely to depose, that at the Time of committing the Offence the Person charged was sleeping in his Bed*.

Of

* Very little short of the Case here supposed, was the following one of an Offender, a few Years ago tried before me at the *Middlesex* Session. Some Custom-House Officers being in Search of smuggled Goods, the Mob rose and resisted them with a Discharge of Fire Arms ; and a Riot ensued. The Prisoner was apprehended as one of the Rioters, and being carried before a Magistrate, alledged, in Proof of his Innocence, that at the Time of the Riot he was ten Miles from the Place where it arose, viz. at *Croydon*, in *Surry*. Forgetting this his Defence before the committing Magistrate, he at his Trial produced a friendly Witness, who swore, that for a certain Period, commencing and ending with the Riot, the Offender was in his own Room, having locked himself in ;
and

Of Nufances there are many and various Kinds. These stand opposed to private Injuries; and in judicial Proceedings are ever laid as against the King's Peace, and to the Annoyance of his Subjects. Under this Head are comprehended Obstructions of the public Highways, Buildings and Erections for the carrying on of noxious Trades and Businesses, Gaming-Houses, Places of lewd Resort, and Places of public Diversion not licensed according to an Act of Parliament, made in the Reign of the late King. The Mischiefs severally arising from these are obvious; and it is Part of your Duty, as they shall come to your Knowledge, or fall within your Observation, from Time to Time, to present such Offences and Places, in order to the Punishment of those Persons who by Law are made responsible for their Act in the one Instance, and their Conduct in the other.

Affrays and Assaults on the Persons of Individuals, though nominally Offences against the King, and therefore fineable at the Discretion of his Justices, are, nevertheless, near-

and that he, the Witness, through the Chinks of an adjoining Apartment, saw him remain there till the Tumult was over. It happened, however, that the committing Magistrate being in Court, produced the Examination taken before him; and, the same being properly attested, and the Evidence of his being active in the Riot appearing full and clear, the Jury found the Offender guilty; and, if I do not mistake, the Court committed the Witness for the Perjury.

ly similar in their Nature to the civil Action of Trespafs; inasmuch as the Fine upon Conviction is in most Instances imposed with a View to the pecuniary Satisfaction of the Prosecutor. In Complaints of this Sort, where the Injury is but small, the Magistrate, to whom the Complaint is first made, cannot better exercise his Humanity, and I may add, his Wisdom, than by persuading the Parties to Peace and Reconciliation; an Expedient which I have seldom known to fail: yet if he thinks proper to bind the Offender over, your Duty is, upon probable Evidence, to find the Bill.

I will not at this Time trouble you with the particular mention of the many Statutes that have from Time to Time been made for the Support and Encouragement of Religion; nor farther enlarge upon that Topic, than to inform you, that of political Institutions the Wifest suppose the Being of a God, the Belief of a Providence that over-rules and directs the Actions of Men, and a future State of Rewards and Punishments: and as the fullest Evidence of these important Truths is contained in the sacred Writings, the Founders of our excellent Constitution have recognized the Christian Religion, and by an Ecclesiastical Establishment declared it to be Part of the Law of the Land.

I am

I am sufficiently aware that a Religion protected, as that of this Country is, by Laws and Statutes that make it penal to controvert its fundamental Precepts, notwithstanding that it gives to scrupulous Consciences every reasonable Indulgence*, is by its Enemies termed the Religion of the Magistrate: in one View it may, perhaps, appear so; yet, were the Countenance and Support of the civil Power wanting in this Instance, it is much to be questioned whether among us we should have any Religion at all.

But be the established Religion what it may, it is at least your Duty to protect it: from Infidels and Sceptics it has nothing to fear; for such has been the Effect of the Researches of learned and inquisitive Men, of a Profession to which we are under the greatest Obligation, who with unremitted Care and the most sedulous Application have set themselves to search the Scriptures, that the Evidence of its divine Authority, its Truth, and Excellency is every Day accumulating; so that our own Experience seems to coincide with the Assurance of the Gospel †,

* This Indulgence has been farther extended by a very late Act of Parliament; and it is but Justice thus publicly to declare, and it will afford Satisfaction to many to be informed, that the same has been gratefully accepted; many of the most eminent Dissenting Teachers in this County having legally qualified themselves for the Exercise of their Function, by complying with the Terms thereof.

† *Matt.* xvi. 18.

“ That

“ That the Gates of Hell shall not prevail
 “ against it.” I say, from such Enemies
 as these Christianity has little to fear;
 nevertheless from Insult and Contumely
 it looks to you for Defence; and to
 this End, Laws have been enacted, and con-
 tinue still in Force, that subject to your No-
 tice, and subsequent Punishment, all such as
 by Writing, Printing, Teaching, or advised
 Speaking, deny the Existence of God, or as-
 sert that there are more than One, or that
 deny the Truth of the Christian Religion, or
 the Authority of the Scriptures, or that shall
 revile the Sacraments, or speak in Derogation
 of the Book of Common-Prayer †.

To this extensive Jurisdiction, which I
 have attempted to delineate, the Law has
 added the Correction of the public Manners,
 and has given you Authority to inquire of
 and present Offences *contra bonos Mores*, or,
 in other Words, against the Rules of De-
 cency: under this Head are comprehended
 Bathing in public Places adjacent to High-
 ways and Foot-paths, and the Violation of
 the Rights of Sepulture.

Having taken Occasion to mention the
 Subject of Religion, it cannot be amiss if I
 apply it to the Circumstances of your present

† 9 and 10 Will. III. Cap. 32. 1 Edw. VI. Cap. 4. 1
 Eliz. Cap. 2. § 9.

Attendance, by reminding you, as I now do, of its Obligations ; and of them the least that can be asserted is, that they bind you by the Hope of the greatest Rewards, and the Dread of the severest Punishments, to the Observance of an Oath, perhaps the most solemn and awful that the Wit or Ingenuity of Man can devise: for you ought to remember, as I trust you do, that it is meant to restrain you from presenting any Thing for Malice or evil Will, and obliges you not to leave any Thing unpresented for Love, Favour, Affection, Reward, or any Hopes thereof.

In these two emphatical Sentences are comprised the Duty of a Grand Inquest: I refer you to your Consciences for the Discharge of it, and dismiss you to the Dispatch of that Business, which by this Time calls for your Presence.

F I N I S.

